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ATTORNEY GENERAL OPINION NO. 92- 16

The Honorable Sheila Frahm
State Senator, 40th District
State Capitol, 143-N
Topeka, Kansas 66612

Re: Wildlife, Parks and Recreation -- Department of
Wildlife and Parks; Organization and Powers --
Secretary of Wildlife and Parks; Qualifications

Synopsis: As used within the statute which sets
qualifications for the position of secretary of
Wildlife and Park, the term "education" refers, at
a minimum, to some measure of instruction received
at a school or college in wildlife, parks or
natural resources or a related field. Cited
herein: K.S.A. 1991 Supp. 32-801.

* * *

Dear Senator Frahm:

As chair of the senate confirmations committee, you ask our
opinion regarding whether a nominee for the position of
secretary of wildlife and parks meets the education criteria
established for that position by K.S.A. 1991 Supp. 32-801.
You inform us that the nominee's formal education extends to
completion of one year at a junior college; the course work
during that year is unspecified.

K.S.A. 1991 Supp. 32-801(b) provides:

"The secretary [of wildlife and parks] shall be fully qualified by education, training and experience in wildlife, parks or natural resources, or a related field, and shall have a demonstrated executive and administrative ability to discharge the duties of the office of the secretary.
. . ."

As held in Leek v. Thomas, 217 Kan. 784 (1975) the legislature has authority to establish requisite qualifications for the secretary of wildlife and parks:

"The creation of various offices and departments of government not otherwise provided for in the Kansas Constitution is a legislative function. It is also a legislative function to determine the qualifications of the officers and by whom they shall be appointed and in what manner they shall be appointed. The Kansas Constitution contains no limitation on who may be appointed, and there is no constitutional restriction on the legislature exercising its power as it shall see fit." Syl. 11.

The enactment of K.S.A. 1991 Supp. 32-801(b) codified the legislative determination of eligibility qualifications for the secretary of wildlife and parks, which includes the requirement that the secretary be "fully qualified by education . . . in wildlife, parks, or natural resources, or a related field."

Since the term "education" is not defined within K.S.A. 1991 Supp. 32-801(b), we turn to other generally accepted definitions in order to construe its meaning within the statute.

"It includes not only the narrow concept of instruction, to which it was formerly limited, but embraces all forms of human experience, owing to the recognition of the fact that every stimulus with its corresponding reaction has a definition effect on character. It may be either mainly esthetic, ethical, intellectual, physical, or technical, but to be most

satisfactory it must involve and develop all of these sides of human capacity." Weyl v. Commissioner of Internal Revenue, C.C.A., 48 F.2d 811, 812 (2nd Cir. 1931).

"'Education' is a broad and comprehensive term with a variable and indefinite meaning, and in its broadest significance comprehends the acquisition of all knowledge tending to develop and train the individual, and, when used in this sense, is not limited to the years of adolescence or to instruction in schools, but in common speech 'education' is far more commonly associated with youth and the instruction received from their teachers, and is the general and formal word for schooling, especially in an institution of learning." New Britain Trust Co. v. Stoddard, 179 A. 642, 643 (Conn. 1935).

"In a general sense, 'education' is development of the whole nature of man, physical, intellectual and moral, through interaction with every phase of his environment, but in a narrower sense it means development of the powers or capacities of mind through special processes of training." In re Everson's Will, 52 N.Y.S. 2d 395, 401 (N.Y. 1944).

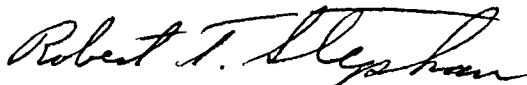
In short, "education" comprehends not merely instruction received at school or college, but the whole course of training, moral, intellectual, and physical. Hooker v. Parkin, 357 S.W.2d 534, 540 (Ark. 1962).

Each of these definitions acknowledges a broad meaning of the term "education" within which is included the concept of formal instruction at an educational institution. In addition, we note that the legislature specified that the secretary be "fully qualified" in three separate categories: (1) education, (2) training and (3) experience. Because of this legislative distinction, we opine that the educational component refers to the narrower concept of education, i.e. that of formal schooling.

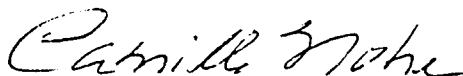
The term "education" as used within K.S.A. 1991 Supp. 32-801(b) would thus refer, at a minimum, to some measure of instruction received at a school or college in wildlife, parks or natural resources, or a related field.

In our opinion, a person whose formal educational instruction is limited to one year at a junior college is not fully qualified in education in wildlife, parks or natural resources, or a related field. Thus, such person would not be statutorily qualified to serve as the secretary of wildlife and parks.

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Camille Nohe
Assistant Attorney General

RTS:JLM:CN:bas